

PROPOSED TO BE EFFECTIVE JANUARY 1, 2005**SAN DIEGO ETHICS COMMISSION REVIEW OF THE CITY'S
Election Campaign Control Ordinance****PROPOSED REVISIONS**

Rev. June 11, 2003

Chapter 2: Government**Article 7: Elections, Campaign Finance and Lobbying****Division 29: Election Campaign Control Ordinance****§27.2901 Purpose and Intent**

It is the purpose and intent of the *City Council* of the *City* of San Diego in enacting this division to preserve an orderly political forum in which individuals may express themselves effectively; to place realistic and enforceable limits on the amounts of money that may be contributed to political campaigns in municipal *elections*; to prohibit *contributions* by organizations in order to develop a broader base of political efficacy within the community; to limit the use of loans and credit in the financing of municipal *election* campaigns; to provide full and fair enforcement of all the provisions of this division; and to avoid the corruption or the appearance of corruption brought about when *candidates* for *elective City office* accept large campaign *contributions*. This division is enacted in accordance with the terms of Section 5 of Article XI of the Constitution of the State of California and Articles II and III of the Charter of The *City* of San Diego. The provisions of Section 27.0102 of this article shall not apply to this division.

§27.2902 Citation

This division shall be cited as the San Diego Municipal Election Campaign Control Ordinance.

§27.2903 Definitions

Unless otherwise defined in this section, or the contrary is stated or clearly appears from the context, the definitions of the Political Reform Act of 1974 (Government Code sections 81000 *et seq.*) and the definitions contained in the regulations adopted by the Fair Political Practices Commission shall govern the interpretation of this division.

Agent means a *person* who acts on behalf or *at the behest* of any other *person*.

At the behest means made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of.

~~*Candidate* has the same meaning as that term is defined in Section 27.0103.~~

Candidate means any individual who:

- (a) is listed on the ballot for *elective City office*; or
- (b) has begun to circulate nominating *petitions* or authorized others to do so on his or her behalf for nomination for or election to a *City office*; or
- (c) has received a *contribution* or made an *expenditure* or authorized another *person* to receive a *contribution* or make an *expenditure* with the intent to bring about his or her nomination for or *election* to any *City office*; or
- (d) is a *City* officeholder who becomes the subject of a recall *election*. A *City* officeholder “becomes the subject of a recall *election*” on the earlier of:
 - (1) the date a notice of intention to circulate a recall *petition* is published pursuant to the recall provisions of this article; or,
 - (2) the date a statement of organization for a *committee* to recall the officeholder is filed with the *City Clerk* or the Secretary of State pursuant to state and local law.

City means the *City* of San Diego.

City Clerk means the City Clerk of the City of San Diego.

City Council means the Mayor and Council of the City of San Diego vested with all legislative powers of the City of San Diego pursuant to Article III, Section 11 of the Charter of the City of San Diego.

City-wide General Election means either the *election* at which the Mayor and City Attorney are elected unless such officers are elected at the *City-wide Primary Election*, or the City-wide municipal *election* consolidated with the statewide *election* on the first Tuesday after the first Monday in November of each even-numbered year.

City-wide Primary Election means the *election* at which the Mayor and City Attorney are nominated.

~~*City Official* has the same meaning as that term is defined in Section 27.3503.~~

City Official includes:

- (a) any elected or appointed City officeholder, including any City officeholder elected but not yet sworn in; and
- (b) any City Board member, as defined in section 27.3503; and
- (c) any employee of the City, except for classified employees as that term is defined in San Diego Charter section 117, who is required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended; and
- (d) City Council members acting in their capacity as Housing Authority and Redevelopment Agency officers; and
- (e) any consultants of the City who are required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended.

Committee means any *person* acting, or any combination of two or more *persons* acting jointly, who raise or spend \$1,000 or more in behalf of or in opposition to a *candidate* or for the qualification to the ballot or adoption or rejection of one or more ballot *measures*. *Committees* include *controlled committees, primarily formed recipient committees, and general purpose recipient committees*.

Contribution has the same meaning as that term is defined in California Government Code section 82015 and is subject to the inclusions and exceptions contained in title 2, section 18215 of the California Code of Regulations, except as modified by the following provisions. In the event of any conflict between the state law definition and the following provisions, the following provisions shall control:

- (a) *contribution* includes any forgiveness of a debt or other obligation to pay for goods or services rendered, or reduction of the amount of a debt or other obligation to pay for goods or services rendered, unless it is clear from the circumstances that the amount of the reduction was reasonably based on a good faith dispute. A good faith dispute shall be presumed if the *candidate* or *committee* produces:
 - (1) evidence that the *candidate* or *committee* protested the *payment* of a bill no later than 30 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered; and
 - (2) evidence that the protest was based on the quality or quantity of goods delivered or services rendered.

- (b) *contribution* does not include an *independent expenditure*.
- (c) *contribution* does not include a *payment* made for *internal communications*.

Controlled committee means any *committee* controlled directly or indirectly by a *candidate* or which acts jointly with a *candidate* or *controlled committee* in connection with the making of *expenditures*. A *candidate* controls a *committee* if the *candidate*, the *candidate's agent* or any other *committee* controlled by the *candidate* has a significant influence on the actions or decisions of the *committee*.

District General Election means an *election* at which *City Council candidates* are elected unless such officers are elected at the *District Primary Election*.

District Primary Election means an *election* at which *City Council candidates* are nominated.

Election means a *District* or *City-wide Primary Election*, a *District* or *City-wide General Election*, or a *Special Election* or *Special Run-off Election* held in the *City*, but does not include elections of the San Diego Unified School District. For the purpose of this division, a *District* or *City-wide Primary Election*, a *District* or *City-wide General Election*, and a *Special Election* or *Special Run-off Election*, are single and separate *elections*.

Elective City office ~~has the same meaning as that term is defined in Section 27.0103, but~~ means the office of the Mayor, Councilmember, or City Attorney of the City of San Diego. *Elective City office* does not include the office of a member of the governing board of the San Diego Unified School District.

Enforcement Authority means the City of San Diego Ethics Commission. Nothing in this article limits the authority of the City Attorney, any law enforcement agency, or any prosecuting attorney to enforce the provisions of this Article under any circumstances where the City Attorney, law enforcement agency, or prosecuting attorney otherwise has lawful authority to do so.

Expenditure means a *payment*, a forgiveness of a loan, a *payment* of a loan by a third party, or an enforceable promise to make a *payment*, unless it is clear from the circumstances that it is not made for *political purposes*. An *expenditure* is made on the date the *payment* is made or on the date consideration, if any, is received, whichever is earlier. An *expenditure* does not include a *payment* for *internal communications*, nor does it include costs incurred for communications advocating a the nomination, election, or defeat of a *candidate* or the qualification, passage, or defeat of a *measure* by a federally regulated broadcast outlet or by a regularly published newspaper, magazine, or periodical of general circulation which routinely carries news, articles, or commentary of general interest.

Extended family means an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person.

General purpose recipient committee means any *person* that receives *contributions* totaling \$1,000 or more during a calendar year to support or oppose more than one *candidate* or *measure*. This type of *committee* is not controlled by a *candidate*.

Gift has the same meaning as that set forth in California Government Code section 82028.

Independent expenditure means any *expenditure* made by any *person* in connection with a communication that:

- (a) expressly supports or opposes the nomination, election, defeat, or recall of a clearly identified *candidate*; or
- (b) expressly supports or opposes the qualification for the ballot, adoption, or defeat of a clearly identified *measure*; or
- (c) taken as a whole and in context, unambiguously urges a particular result in a *City election*.

An *expenditure* that is made to or *at the behest* of a *candidate* or a *controlled committee* is not an *independent expenditure*.

Internal communication means communications directed solely to members, employees, or shareholders of an organization, including communications to members of any political party, for the purpose of supporting or opposing a *candidate* or *candidates* for *elective City office*, specifically not to include communication activities used in connection with broadcasting, newspaper, billboard or similar type of general public communication. The meaning of *internal communication* is intended to be consistent with the definitions contained in California Government Code section 85312 and title 2, section 18531.7 of the California Code of Regulations. Any amendments made to these authorities shall be deemed to be an amendment to the language of this definition.

Mass mailing means over two hundred substantially similar pieces of campaign literature sent within a single calendar month.

Measure has the same meaning as that term is defined in Section 27.0103, but does not include a recall *election*.

Payment means any payment, reimbursement, distribution, transfer, loan, advance, deposit, *gift* or other rendering of money, property, services or any other thing of value, whether tangible or intangible.

Person means any individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, *committee*, labor union, or any other organization or group of *persons* acting in concert.

Petition means one or more documents seeking action by the *City Council* or some officer. It includes a nominating, initiative, referendary, or recall *petition*.

Political purpose means the purpose of influencing or attempting to influence the action of the *voters* for or against the nomination, election, defeat, or recall of any *candidate* or elected City officer, for or against the qualification of a *City measure* for the ballot, or for or against the adoption or defeat of any *City measure*.

Primarily formed recipient committee means a *person*, entity, or organization that receives *contributions* totaling \$1,000 or more during a calendar year to support or oppose a single *candidate* for a *City election* or a single *City measure*. This type of *committee* is not controlled by a *candidate*.

Shared management means an organizational structure in which there is common management and control of two or more *general purpose recipient committees*. In determining whether there is common management and control, consideration shall be given to the following factors:

- (1) The same *person* or substantially the same *person* manages the operation of the different *general purpose recipient committees*;
- (2) There are common or commingled funds or assets;
- (3) The *general purpose recipient committees* share the use of the same offices or employees, or otherwise share activities, resources, or personnel on a regular basis;
- (4) There is otherwise a regular and close working relationship between the *general purpose recipient committees*.

Special Election means any *election* other than a *District* or *City-wide Primary Election*, or a *District* or *City-wide General Election*. It includes *elections* to consider ballot measures, *elections* to fill vacancies in elective *City office*, and recall *elections*.

Special Run-off Election means any *election* that is required by the failure of any *candidate* to receive a majority of votes cast at a *Special Election*.

~~*Travel expenses* has the same meaning as that term is defined in section 27.4002.~~

Treasurer means the individual designated to perform the duties of *treasurer* pursuant to section 27.2915.

Voter means an elector who is qualified and entitled to vote under general law in *City elections* and who is validly registered at the time he or she seeks to exercise the right to vote.

Vendor means any *person* who delivers goods or renders services to a *candidate* or *committee*, unless it is clear from the circumstances that they were not made for *political purposes*.

§27.2910 Candidate and Committee Status; Duration

- (a) For purposes of this division, any individual who is a *candidate* retains the status of *candidate* until that status is terminated either:
 - (1) pursuant to California Government Code section 84214; or
 - (2) pursuant to Sections 27.2991(c) or 27.2991(d) of this Municipal Code.
- (b) For purposes of this division, any *committee* retains the status of *committee* until that status is terminated pursuant to California Government Code section 84214.

§27.2915 Duty to Have Campaign Treasurer

Every *candidate* and every *committee* shall have a *treasurer*. A *candidate* may designate himself or herself as *treasurer*. Only an individual may be designated as a *treasurer*.

§27.2916 Authority of Treasurer

It is unlawful for any *expenditure* to be made by or on behalf of a *committee* without the express authorization of the *treasurer*. It is unlawful for any *contribution* to be accepted by a *committee* or any *expenditure* to be made on behalf of a *committee* at a time when the office of *treasurer* is vacant.

§27.2917 Campaign Contribution Checking Account for Controlled Committees

- (a) Every *controlled committee* that accepts *contributions* shall establish one campaign *contribution* checking account at an office of a bank or other financial institution providing checking account services located in the *City of San Diego*.
- (b) Upon opening of an account, the name of the bank or other financial institution and account number thereof shall be filed with the *City Clerk* on the same forms and in the time and manner required by California Government Code sections 81000 *et seq.*
- (c) Upon opening of an account, all *contributions* of money or checks, or anything of value converted by such *controlled committee* to money or a check shall be

placed in the *controlled committee's* checking account within twenty business days.

- (d) *Contributions* must include the information required by California Government Code section 84211. Any information that has not been provided shall be requested, in writing, by the campaign *treasurer* within ten business *days* of receipt of the *contribution*. No *contribution* shall be deposited to a campaign *contribution* checking account without the receipt by the *candidate* of that information.
- (e) Any *contribution* not deposited within twenty business *days* shall be returned to the contributor as soon as possible after the twentieth business *day*, but no later than twenty-five business *days* after receipt of the *contribution*.

§27.2918 Credit Card Accounts

A credit card account may be established for a *controlled committee* only in accordance with the provisions of this section.

- (a) A *candidate* whose *controlled committee* establishes a credit card account must personally qualify for the account and personally be responsible for all debt owed on the account.
- (b) It is unlawful for any such credit card account to have, at any one point in time, an outstanding balance in excess of \$10,000.
- (c) *Payment* of charges that have accrued on the credit card account must be made only from the *controlled committee's* campaign *contribution* checking account.
- (d) A *candidate* may designate an existing personal credit card with a zero balance to be his or her campaign bank account credit card, but personal expenses may not, thereafter, be charged to that account until after the *election*. Once all campaign expenses have been paid, the account may be re-designated to a personal credit account.

§27.2919 Disbursements

It is unlawful for any funds to be disbursed from a campaign *contribution* checking account established pursuant to Section 27.2917 unless such disbursement is done by check signed by the *candidate*, the *candidate's* campaign *treasurer*, or a designated *agent* of the campaign *treasurer*.

§27.2920 Petty Cash Fund

A petty cash fund may be established for each *controlled committee* bank account under the following conditions:

- (a) No more than \$100 may be held in the petty cash fund at any one time.
- (b) No *expenditure* that totals \$100 or more may be made from the petty cash fund.
- (c) *Expenditures* from a petty cash fund are deemed to be *expenditures* from the campaign bank account.

§27.2921 Liquidation of Accounts

In the event that *payment* has been made for all goods and services furnished in connection with the campaign of a *candidate*, a *controlled committee* checking account may be liquidated by paying the remaining balance in the checking account in any lawful manner pursuant to section 27.2922.

§27.2922 Disposal of Surplus Campaign Funds

Within 90 days of withdrawal, defeat, or election to *City* office, campaign funds under the control of a *candidate* shall be considered surplus campaign funds, and shall be used only for the following purposes:

- (a) To pay outstanding campaign debts;
- (b) To repay *contributions*;
- (c) To make a donation to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the *candidate*, any member of his or her immediate family, or his or her campaign *treasurer*.
- (d) To make a *contribution* to a political party *committee*, provided the campaign funds are not used to support or oppose *candidates* for *elective City office*. However, the campaign funds may be used by a political party *committee* to conduct partisan voter registration, partisan get-out-the-vote activities, and slate mailers.
- (e) To make a *contribution* to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot *measure*.
- (f) To pay for professional services reasonably required by the *candidate* or *committee* to assist in the performance of its administrative functions, including *payment* for attorney's fees for litigation that arises directly out of a *candidate's* activities or his or her status as a *candidate*, including, but not limited to, an action to enjoin defamation, defense of an action brought of a violation of state or local campaign, disclosure, or election laws, and an action from an election contest or recount.

§27.2923 Mass Mailings

- (a) It is unlawful for any *candidate* or *committee* participating in a *City election* campaign to send a *mass mailing* unless the name, street address, and city of the *candidate* or *committee* are shown on the outside of each piece of mail in the *mass mailing*.
- (b) If the sender of a *mass mailing* is a *controlled committee*, the name of the *candidate* controlling the *committee* shall be included in addition to the information required by subsection (a).

§27.2925 Accounting

- (a) In addition to any other requirements of this division, every *candidate* or *committee* that accepts *contributions* for a *City election* shall maintain a record of each of the following:
 - (1) any *contribution* offered to and refused by the *candidate* or *committee*; and,
 - (2) any *contribution* received by the *candidate* or *committee* and returned to the contributor; and,
 - (3) any *contribution* received by the *candidate* or *committee* and deposited into the campaign *contribution* checking account; and,
 - (4) any disbursement made from the campaign *contribution* checking account.
- (b) The records required by section 27.2925(a) shall include, but not be limited to, all of the following:
 - (1) the name and address of the contributor; and
 - (2) the amount of the *contribution*, and the date on which it was received or offered; and,
 - (3) for each *contribution* to any *committee* other than a *general purpose recipient committee*, a written statement from the contributor signed under penalty of perjury that states the following: “I have not been reimbursed by any individual, company, or organization for this contribution, and will not accept any such reimbursement in the future.”
 - (4) if the *contribution* is made by check, a legible photocopy of the check; and,

- (5) if the *contribution* offered or received consists of cash, an indication that cash was offered or received, and a legible photocopy of the bank deposit slip indicating that the cash *contribution* was deposited into the campaign *contribution* checking account; and,
 - (6) legible photocopies or originals of all bank records pertaining to the campaign *contribution* checking account; and,
 - (7) if a *contribution* is made by the *candidate* to his or her own campaign, a statement disclosing the source of the funds; and,
 - (8) if a *contribution* is of something other than money, a description of what was contributed, a reasonable good faith estimate of the monetary value of the *contribution*, and the basis for the estimate; and,
 - (9) for each disbursement made from or check drawn on the campaign *contribution* checking account, the canceled check (if requested), the bank statement showing the disbursement, the name of the payee of each check, an itemized record of the goods or services for which each check is issued or disbursement made, and legible photocopies or originals of any invoices, bills, or other supporting documents for which funds were disbursed.
- (c) The records required by Section 27.2925 (a) and (b) shall be kept by the *candidate* or *committee treasurer* for a period of four years following the date that the campaign statement to which they relate is filed.
 - (d) Each *candidate* and *committee* shall deliver, on demand, to any public officer having authority to enforce this division a written authorization permitting the officer to have access to all records pertaining to the campaign *contribution* checking account.
 - (e) Each *candidate* and *committee* shall, on demand, make available to any public officer having authority to enforce this division all records required by this division to be maintained by the *candidate* or *committee*.

§27.2930 Base Level of Campaign Statements and Disclosures

Each *candidate* and *committee* shall file campaign statements in the time and manner required by California Government Code sections 81000 *et seq.* with the following additional requirements:

- (a) All *candidate* and *committee* campaign disclosure statements that are generated from the output of a computer software program shall be generated with the names of all contributors listed in alphabetical order by last name. *Treasurers* for any *committee* that files hand written campaign disclosure statements shall

make reasonable good faith efforts to list the names of all contributors in alphabetical order by last name.

- (b) The specific date when goods are delivered or services are rendered by a *vendor* and the specific date of receipt by the *committee* of a bill or invoice from the *vendor* shall be disclosed in the category “Description of Payment” on any schedule requiring the disclosure of “Accrued Expenses.”
- (c) The specific date when a *committee* pays a *vendor* for goods or services shall be disclosed in the category “Amount Paid” on any schedule requiring the disclosure of “Payments Made.”
- ~~(d) All candidates and committees participating in primary and general City elections for the same election cycle shall file a separate campaign disclosure statement for each election. For purposes of complying with this subsection, all expenditures made or incurred prior to the date of the primary election shall be disclosed on the campaign disclosure statement for the primary election.~~
- (d) A general purpose recipient committee attributing contributions totaling \$100 or more to the same individual in a single calendar year shall separately disclose such contributions as follows:
 - (1) On FPPC Form 460 – Schedule A, the *committee* shall supply all identifying information regarding the contributor, report the date of the attribution as the “date received,” show the cumulative amount attributed to the individual for the calendar year, and include a notation that the contribution is being “re-reported per SDMC §27.2936.”
 - (2) On FPPC Form 496, the *committee* shall supply all identifying information regarding the contributor, report the date of the attribution as the “date received,” show the amount attributed to the individual at that time, and include a notation that the contribution is being “re-reported per SDMC §27.2936.”
- (e) No later than 4:30 p.m. on the Thursday before the election, every controlled committee participating in a City election shall file with the City Clerk a Preelection Statement on FPPC Form 460 covering the period from the last FPPC Form 460 filed by that committee through the Tuesday before the election.
- (f) It is unlawful to fail to comply with the disclosure requirements of California Government Code sections 81000, *et seq.* and the additional requirements of this section.

§27.2931 Online Disclosure of Campaign Statements

- (a) It is the intent of the *City* to implement an electronic filing system that facilitates the disclosure of financial activities engaged in by *candidates* and *committees* participating in *City election* campaigns. When a practical and financially feasible electronic filing system has been implemented by the *City Clerk*, the provisions of this section shall be in effect.
- (b) Each *candidate* and *committee* that has received *contributions* or made *expenditures* of \$10,000 or more in connection with a *City election* shall use the *City Clerk's* electronic filing system to file online each campaign statement required by section 27.2930. Once a *candidate* or *committee* is required to file campaign statements online, that *candidate* or *committee* shall continue to file statements online until the *committee* has officially terminated.
- (c) Any *candidate* or *committee* not required to file online pursuant to subsection (b) may do so voluntarily.
- (d) The beginning date for calculating the \$10,000 threshold shall be determined when the *City Clerk* implements its electronic filing system.
- (e) All *candidates* and *committees* required to file their campaign statements online shall continue to file a paper copy of each campaign statement, as required by the California Political Reform Act and this division, until such *candidates* and *committees* are no longer required to file campaign statements with the *City Clerk*. The paper copy shall continue to be the original campaign statement for audit and other legal purposes.
- (f) In addition to any late filing penalties that may be imposed for the late filing of a paper copy pursuant to the California Political Reform Act or this division, any *person* who fails to comply with the online filing requirement of this section shall be subject to an additional late filing penalty of \$25 per day after the deadline for the filing of the online copy.
- (g) The information contained on a campaign statement filed online shall be the same as that contained on the paper copy of the same statement that is filed with the *City Clerk*.

§27.2932 Supplemental Campaign Disclosures

The following supplemental disclosure requirements regarding *internal communications* and *expenditures* are intended to provide sufficient notice to the *City Clerk* and to all *candidates* for the same office that they are approaching and exceeding thresholds set forth in this division that could trigger the lifting of voluntary *expenditure* limitations. The disclosures identified in this section are required only with regard to *City* races in which one or more *candidates* are

participating in the Voluntary Expenditure Ceiling program set forth in sections 27.2970 to 27.2985.

- (a) Any *person* that makes, or incurs an obligation to make, *payments* for *internal communications* in support of or opposition to a *candidate* for *elective City office* shall file a supplemental campaign disclosure form with the *City Clerk* by personal delivery or fax within 24 hours each time *payments* totaling \$1,000 or more for *internal communications* are made or incurred. If multiple *payments* are made or incurred at the same time with respect to a single *internal communication*, those *payments* may be disclosed on a single notice.
- (b) Any *committee* that makes, or incurs an obligation to make, *independent expenditures* in support of or opposition to a *candidate* for *elective City office* shall file a supplemental campaign disclosure form with the *City Clerk* by personal delivery or fax within 24 hours each time one or more such *independent expenditures* totaling \$1,000 or more are made or incurred. If multiple *payments* are made or incurred at the same time with respect to a single *independent expenditure*, those *payments* may be disclosed on a single notice.
- (c) The notice required by subsections (a) and (b) shall contain the following information with respect to each *payment*:
 - (1) The *candidate* who was supported or opposed by the *internal communication* or *independent expenditure*;
 - (2) the date and amount of the *payment*;
 - (3) a description of the type of *internal communication* or *independent expenditure* for which the *payment* was made or incurred;
 - (4) the name and address of the *person* making the *payment*; and
 - (5) the name and address of the payee.
- (d) Any *candidate* for *elective City office*, other than those *candidates* who are participating in the Voluntary Expenditure Ceiling program, who makes, or incurs an obligation to make, *expenditures* in support of his or her candidacy that exceed the *expenditure* ceiling set forth in section 27.2971 shall notify the *City Clerk* by personal delivery, fax, or e-mail within 24 hours of exceeding the *expenditure* ceiling.

§27.2933 Lawful Use of Campaign Funds by a Committee

Uses of campaign funds held by any *committee* formed in accordance with this Division shall be governed by California Government Code sections 81000 *et seq.* It is unlawful to use campaign funds in any manner that would violate the provisions of California Government Code sections 81000 *et seq.*

§27.2935 Contribution Limitations

- (a) It is unlawful for an individual to make to any *candidate* or *committee* supporting or opposing a *candidate*, or for any *candidate* or *committee* supporting or opposing a *candidate* to solicit or accept, a *contribution* that would cause the total amount contributed by that individual to support or oppose the *candidate* to exceed \$250 for any single *election* if the *candidate* is seeking *City Council* district office, or to exceed \$300 for any single *election* if the *candidate* is seeking the office of the Mayor or City Attorney.
- (b) Nothing in this section is intended to limit the amount of his or her own money or property that a *candidate* may contribute to, including loan to, or expend on behalf of, the *candidate's* own campaign.
- (c) The provisions of this section are not intended to prohibit an individual from making *contributions* for primary and general *elections* at the same time, or from making *contributions* for *special elections* or *special run-off elections* at the same time.
- (d) The *contribution* limits imposed by this section do not apply to *general purpose recipient committees*, which are discussed in section 27.2936.
- (e) The *contribution* limits imposed by this section do not apply to *contributions* made to a legal defense fund, as discussed in sections 27.2965-27.2969.

27.2936 Contribution Limitations for General Purpose Recipient Committees

- (a) *General purpose recipient committees* may participate in *City candidate elections* by using *contributions* from individuals, subject to the *contribution* limits established by this section.
- (b) It is unlawful for any *general purpose recipient committee* to use a *contribution* for the purpose of supporting or opposing one or more *candidates* seeking *elective City office* unless the *contribution* is attributable to an individual in an amount that does not exceed \$250 in a single calendar year.
- (c) It is unlawful for two or more *general purpose recipient committees* with *shared management* to attribute *contributions* to the same individual for the purpose of supporting or opposing one or more *candidates* seeking *elective City office* if it causes the total amount those *committees* attribute to that individual to exceed \$250 in a single calendar year.
- (d) A *general purpose recipient committee* that attributes a *contribution* to an individual for the purpose of supporting or opposing one or more *candidates* seeking *elective City office* shall abide by the reporting requirements set forth in section 27.2930(e).

- (e) This section shall not be construed to limit the amount of money that an individual or any other *person* may give to a *general purpose recipient committee* in the form of *contributions*, dues, donations, fees, or other forms of monetary transactions, but shall be construed to limit the source and amount of *contributions* a *general purpose recipient committee* may use to participate in *City candidate elections*.

~~§27.2911~~ **§27.2937 Contributions for Recall Elections**

~~For purposes of this division, a recall *election* begins on the date a notice of intention to circulate a recall *petition* is published pursuant to the recall provisions of this article. A recall *election* occurs whether voters cast ballots pertaining to the recall or not.~~

(a) For purposes of making, soliciting, and accepting *contributions* under this division, the eventual occurrence of a recall *election* may be presumed upon the earlier of:

- (1) the date a notice of intention to circulate a recall *petition* is published pursuant to the recall provisions of this article; or,
 - (2) the date a statement of organization for a *committee* to recall the officeholder is filed with the City Clerk or the Secretary of State pursuant to state and local law.
- (b) *Contributions* accepted for a recall *election* shall not count toward the *contribution* limits applicable to any other *election* even if ballots pertaining to the recall effort are never cast.
- (c) Within 90 days of the conclusion of a recall *election*, or within 90 days of the failure of a recall effort to result in a recall *election*, all remaining *controlled committee* campaign funds shall be considered surplus campaign funds and disposed of in accordance with section 27.2922(a)-(f).

§27.2940 Restrictions on Time Period of Contributions

- (a) It is unlawful for any *candidate* or *controlled committee* seeking *election* to a *City Council* district office to accept *contributions* prior to the nine months preceding that *election*, and it is unlawful for any *candidate* or *controlled committee* seeking *election* to the office of the Mayor or City Attorney to accept *contributions* prior to the twelve months preceding that *election*.
- (b) It is unlawful for any *candidate* or *controlled committee* for *City* office to accept *contributions* more than 90 days after the withdrawal, defeat, or election to office. *Contributions* immediately following such a withdrawal, defeat, or election and up to 90 days after that date, may be accepted only by a *candidate*

or *controlled committee* with outstanding debts or loans, and shall be used only to pay the outstanding debts or loans owed by the *candidate* or *controlled committee*.

- (c) *Contributions* pursuant to subsections (a) and (b) of this provision shall be considered *contributions* raised for the *election* in which the bills and debts were incurred and shall be subject to the *contribution* limits of that *election*.
- (d) The restrictions on accepting *contributions* imposed by this section do not apply to *contributions* made to a legal defense fund, as discussed in sections 27.2965-27.2969.

§27.2945 Loans

- (a) It is unlawful for any *candidate* to personally make outstanding loans to his or her campaign or *controlled committee* that total at any one point in time more than \$15,000 if the *candidate* is seeking *City Council* district office, or \$25,000 if the *candidate* is seeking the office of Mayor or City Attorney. Nothing in this section shall prohibit a *candidate* from making unlimited *contributions* to his or her own campaign.
- (b) It is unlawful for any *candidate* who makes a loan to his or her *committee* from his or her personal funds to charge a rate of interest greater than the terms available to members of the public charged by a commercial lending institution in the regular course of business.
- (c) Every *candidate* and *committee* shall disclose loans in the same time and manner required by California Government Code sections 84211, 84216, and 84216.5.

§27.2946 Family Contributions

- (a) *Contributions* by a husband and wife shall not be aggregated.
- (b) *Contributions* by children under 18, except in the case of an emancipated minor, shall be treated as *contributions* attributed equally to each parent or guardian.

§27.2948 Prohibition of Anonymous Contributions

It is unlawful for any *candidate* or *committee* to use more than two hundred dollars (\$200) in total anonymous *contributions* with respect to a single *election*. To the extent that a *candidate* or *committee* accepts anonymous *contributions* in excess of two hundred dollars (\$200), the excess shall be paid promptly, from available campaign funds, if any, to the *City Clerk* and made payable to the City Treasurer for deposit in the General Fund of the *City*.

§27.2949 Prohibition of Contributions in the Name of Another Person

- (a) It is unlawful for any *person* to make directly or indirectly a *contribution* in a name other than the name by which he or she or they are identified for legal purposes.
- (b) It is unlawful for any *person* to make directly or indirectly a *contribution* in the name of another *person*.
- (c) It is unlawful for any *person* to make directly or indirectly a *contribution* in his or her or their name of:
 - (1) anything belonging to another *person*; or
 - (2) anything received from another *person* on the condition that it be used as a *contribution*.
- (d) When it is discovered by the campaign *treasurer* that a *contribution* has been received and deposited in violation of Section 27.2949, the campaign *treasurer* shall pay promptly from available campaign funds, if any, the amount received in violation of this section. That amount shall be delivered to the *City Clerk* and made payable to the City Treasurer for deposit in the General Fund of the *City*.

§27.2950 Prohibitions and Limits on Contributions From Organizations

- (a) It is unlawful for a *candidate* or *controlled committee*, or any *treasurer* thereof, or any other *person* acting on behalf of any *candidate* or *controlled committee*, to solicit or accept a *contribution* from any *person* other than an individual.
- (b) It is unlawful for a *person* other than an individual to make a *contribution* to a *candidate* or *controlled committee*.
- (c) It is unlawful for any *primarily formed recipient committee* to solicit or accept from any *person* other than an individual, or for any *person* other than an individual to make, a *contribution* supporting or opposing a *candidate* for *elective City office*.
- (d) The prohibitions in subsection (c) shall not be construed to prevent a *person* other than an individual from making a *contribution* to a *primarily formed recipient committee* that is organized solely for the purpose of supporting or opposing the qualification of a *City measure* for the ballot, or the adoption or defeat of a *City measure*, and the *primarily formed recipient committee* pursues no other purpose.
- (e) For purposes of Section 27.2950(d), a recall *election* is not an *election* on a *City measure*.

- (f) It is unlawful for a *general purpose recipient committee* to attribute a *contribution* to a *person* other than an individual for the purpose of supporting or opposing one or more *candidates* for *elective City office*.
- (g) This section shall not be construed to prevent a *general purpose recipient committee* from accepting a *contribution* from any *person* for any purpose, but shall be construed to limit the source of *contributions* a *general purpose recipient committee* may use to participate in *City candidate elections*.

§27.2951 Prohibition on Contributions From Organization Bank Accounts

For purposes of supporting or opposing a *candidate* seeking *elective City office*:

- (a) It is unlawful for any individual to make, or any *committee* to accept, a *contribution* drawn against a checking account or credit card account unless such account belongs to one or more individuals in their individual capacity.
- (b) This section shall not be construed to prevent a *general purpose recipient committee* from accepting checks or credit card *payments* from any *person* for any purpose, but shall be construed to prohibit accounts not owned by individuals from being the source of *contributions* a *general purpose recipient committee* may use to participate in *City candidate elections*.

§27.2952 Obligation to Return Contributions

- (a) If a *candidate, committee, or committee treasurer* is offered a *contribution*, the acceptance of which would constitute a violation of this division, the *candidate, committee or committee treasurer* shall refuse the offer.
- (b) If a *candidate, committee, or committee treasurer* receives a monetary *contribution*, the acceptance of which would constitute a violation of this division, neither the *candidate, committee, nor committee treasurer* shall be subject to any penalty for receipt of that *contribution* if the *candidate, committee, or committee treasurer*:
 - (1) does not deposit the *contribution* into the campaign *contribution* checking account; and,
 - (2) returns the *contribution* within twenty business *days* of the date the *contribution* was received.
- (c) If a *candidate, committee, or committee treasurer* deposits into the campaign *contribution* checking account a monetary *contribution*, the acceptance of which constitutes a violation of this division, the *candidate, committee, or committee treasurer* shall within ten calendar *days* of the date of the *candidate's, committee's, or committee treasurer's* discovery of the violation provide in writing to the *City Clerk* all facts pertaining to the *contribution*,

including but not limited to: (1) a copy of any check(s), draft(s), or other instrument(s) by which the *contribution* was made; and (2) if made in cash, a report of the amount and denominations of currency tendered and a legible photocopy of the bank deposit slip; and (3) if by wire or other electronic fund transfer, a legible printout or photocopy of the transaction; and (4) a report of the means of tender, delivery, or confirmation of the *contribution* (e.g. U.S. Postal Service or private mail, courier service, in person, etc.); and (5) a report of the full name and street address of the contributor.

- (d) The *candidate* or *committee treasurer* shall promptly deliver from available funds, if any, an amount equal to any monetary *contribution* constituting a violation of this division that has been deposited into the campaign *contribution* checking account. Such amount shall be made payable to the *City Treasurer* and delivered to the *City Clerk*. The *City Treasurer* shall deposit into the *City's* General Fund any amount he or she receives under this section.

§27.2953 Campaign Expenditures Uncontrolled by Candidate or Committee

Any person who makes *independent expenditures* for or against a *City candidate* shall indicate clearly on any material published, displayed, or broadcast that the *independent expenditure* was not authorized or paid for by a *City candidate*.

§27.2960 Extensions of Vendor Credit

- (a) *Vendors* may extend credit to *candidates* or *committees* in the ordinary course of business in the same manner as extended to *persons* for other than *political purposes*.
- (b) For leases or rentals of one month or more, *candidates* or *committees* that rent or lease real or personal property for *political purposes* shall pay at least one month's rent in advance of taking possession. Thereafter, *candidates* or *committees* shall pay rent in advance.
- (c) For leases or rentals of less than one month, *candidates* or *committees* that rent or lease real or personal property for *political purposes* shall pay in full in advance.
- (d) A *candidate* or *committee* that accepts goods or services for *political purposes* on credit under Section 27.2960(a), shall pay for those goods or services in full no later than ninety calendar *days* after receipt of a bill or invoice and in no event later than ninety calendar *days* after the last calendar *day* of the month in which the goods were delivered or the services were rendered, unless it is clear from the circumstances that the failure to pay is reasonably based on a good faith dispute. For purposes of this subsection, a good faith dispute shall be presumed if the *candidate* or *committee* produces the following:

- (1) evidence that the *candidate* or *committee* protested the *payment* of a bill no later than 30 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered; and,
- (2) evidence that the protest was based on the quality or quantity of goods delivered or services rendered.
- (e) The provisions of subsection (d) do not apply to debt owed to a financial institution for an outstanding credit card balance.

§27.2961 Continuing Violations

A *candidate* or *committee treasurer* violates section 27.2960(b), (c), or (d) whenever the *candidate* or *committee treasurer* fails to make *payment* in full for rent, goods, or services within the time periods set forth in section 27.2960. Each and every calendar day any obligation remains partially or wholly unpaid after the time periods set forth in section 27.2960 constitutes a separate violation.

§27.2962 Suppliers of Goods and Services — Disclosure of Records Required

It is unlawful for any *person* who supplies goods or services to a *candidate* or *committee* for use in connection with the campaign of any *candidate* for *elective City office* or for or against any *City measure* to knowingly refuse to divulge or disclose to the *Enforcement Authority* that *person's* record of any *expenditures* made by the *candidate* or *committee* as *payment* for such goods or services.

§27.2965 Legal Defense Fund

- (a) Every elected *City Official* and every *candidate* for *elective City office* shall be permitted to establish and maintain one legal defense fund.
- (b) In addition to *contributions* received in connection with seeking an *elective City office*, any elected *City Official* or *candidate* for *elective City office* may receive *contributions* from individuals for a legal defense fund, and may use such *contributions* solely to defray attorney's fees and other legal costs incurred in the *City Official's* or *candidate's* legal defense to one or more civil, criminal, or administrative proceedings arising directly out of the conduct of an *election* campaign, the electoral process, or the performance of the *City Official's* governmental activities and duties.
- (c) It is unlawful for any individual to make, or any *City Official* or *candidate* to solicit or accept from any individual, *contributions* totaling more than \$250 during a single calendar year to a legal defense fund in connection with a civil, criminal, or administrative proceeding identified in a Statement of Purpose filed with the *City Clerk* pursuant to section 27.2966.

- (d) An individual's *contributions* to a legal defense fund are not subject to the campaign *contribution* limits set forth in Municipal Code sections 27.2935 and 27.2940.
- (e) It is unlawful for any individual to make a *contribution* to a legal defense fund without accompanying the *contribution* with a disclosure form identifying the particulars of all matters, if any, that such individual has pending before the board, commission, department, or agency of which the *City Official* or *candidate* maintaining the legal defense fund is a member or employee. When filing the quarterly campaign statements required by section 29.2967, the *City Official* or *candidate* maintaining the legal defense fund shall attach a copy of each disclosure form received pursuant to this subsection.
- (f) Any legal defense fund established in accordance with sections 27.2965-27.2969 must be maintained through a *controlled committee* the *City Official* or *candidate* has organized to seek the office held or sought that is the subject of the civil, criminal, or administrative proceeding.
 - (1) It is unlawful for a *controlled committee* to accept a *contribution* for a legal defense fund unless it is accompanied by a written designation from the contributor indicating that the *contribution* is a *contribution* for the legal defense fund.
 - (2) *Contributions* collected for a legal defense fund must be deposited in the *controlled committee's* campaign contribution checking account.
 - (3) *Expenditures* from a legal defense fund must be made from the *controlled committee's* campaign contribution checking account.
- (g) Except as set forth in subsection 27.2922(f), sections 27.2965-27.2969 shall constitute the sole authority for soliciting or accepting *contributions* for the legal costs of the defense of an action relating to an election campaign, electoral process, or a *City Official's* conduct in office.

§27.2966 Establishment of a Legal Defense Fund

- (a) Prior to soliciting or accepting any *contributions* for a legal defense fund, the *City Official* or *candidate* shall file with the *City Clerk* a "Statement of Purpose" identifying the specific civil, criminal, or administrative proceeding for which the use of a legal defense fund is sought. A *City Official* or *candidate* seeking to establish or maintain a legal defense fund shall file a separate "Statement of Purpose" for each civil, criminal, or administrative proceeding for which the use of the legal defense fund is sought.
- (b) The legal defense fund shall be named: "The (name of the *City Official* or *candidate*) Legal Defense Fund."

- (c) Any *controlled committee* accepting *contributions* for a legal defense fund shall keep a ledger for each civil, criminal, or administrative proceeding identified in a Statement of Purpose, detailing all of the legal defense fund's *contributions* and *expenditures* for each proceeding. Such ledgers shall be maintained separately from the *controlled committee's* accounting of *contribution* and *expenditure* activity unrelated to the legal defense fund.

§27.2967 Disclosure of Legal Defense Fund Activity

- (a) The *controlled committee* of any *City Official* or *candidate* who is a *candidate* in an upcoming *City election* shall disclose its legal defense fund activity on campaign statements filed in accordance with the schedule prescribed by the Political Reform Act.
- (b) The *controlled committee* of any *City Official* or *candidate* who is not a *candidate* in an upcoming *City election* shall disclose its legal defense fund activity on campaign statements filed quarterly, as follows
- (1) No later than April 30 for the period of January 1 through March 31.
- (2) No later than July 31 for the period of April 1 through June 30.
- (3) No later than October 31 for the period of July 1 through September 30.
- (4) No later than January 31 for the period of October 1 through December 31.
- (c) The *City Official's* or *candidate's controlled committee* shall file separate summary pages and disclosure schedules for all *contributions* and *expenditures* made in connection with the legal defense fund, and shall clearly identify the name of the legal defense fund on all such summary pages and disclosure schedules.

§27.2968 Impermissible Use of Legal Defense Fund

- (a) It is unlawful for a *City Official* or *candidate* to use any portion of a legal defense fund to pay a fine, sanction, or other type of penalty.
- (b) It is unlawful for a *City Official* or *candidate* to transfer any portion of a legal defense fund to any other *committee*.

§27.2969 Termination of Legal Defense Fund

- (a) Within six months after the final conclusion of all lawsuits or proceedings for which the legal defense fund was established or maintained, the *City Official* or *candidate* may dispose of any remaining funds in the legal defense fund as

follows:

- (1) by paying outstanding legal costs incurred in the defense of any proceeding identified in the Statement of Purpose; or,
 - (2) by repaying the contributors on a pro rata basis; or,
 - (3) by making the funds payable to the City Treasurer for deposit in the General Fund of the City.
- (b) Within six months after the final conclusion of all proceedings for which the legal defense fund was established, the *City Official* or *candidate* shall file with the *City Clerk* a “Legal Defense Fund Termination” statement declaring that the legal defense fund is no longer soliciting or accepting *contributions* for the legal defense fund, does not anticipate making further *expenditures* from the legal defense fund, and has properly disclosed all legal defense fund *contributions* and *expenditures*.

§27.2970 Declaration of Accepting or Rejecting Expenditure Ceilings

- (a) No earlier than the sixtieth calendar day prior to a *District* or *City-wide Primary Election*, nor later than the close of business on the fifty-third calendar day prior to a *District* or *City-wide Primary Election*, each *candidate* participating in that *election* shall file a statement of acceptance or rejection of compliance with the voluntary *expenditure* ceilings set forth in section 27.2971.
- (b) No earlier than the fifty-seven calendar day prior to a *Special Election*, nor later than the close of business on the fiftieth calendar day prior to a *Special Election*, each *candidate* participating in that *Special Election* shall file a statement of acceptance or rejection of compliance with the voluntary *expenditure* ceilings set forth in section 27.2971.
- (c) *Candidates* who choose to abide by the *expenditure* ceilings in accordance with subsections (a) and (b) may then sign and file with the *City Clerk* the Voluntary Expenditure Ceilings and Public Funding Contract for eligibility for the matching funds program.

§27.2971 Voluntary Expenditure Ceilings

Except as otherwise provided in section 27.2973, it is unlawful for any *candidate* for *City* office who files a contract of acceptance of matching funds, or for any *controlled committee* of such *candidate*, to make *expenditures* in excess of the following amounts:

- (a) \$75,000 per *election* if the *candidate* is seeking *City Council* district office; or,

- (b) \$200,000 per *election* if the *candidate* is seeking the office of the Mayor or City Attorney.

§27.2972 Time Periods for Expenditures

For purposes of the *expenditure* ceilings, *expenditures* made at any time up to the date of a *District Primary Election*, *City-wide Primary Election*, or *Special Election* shall be considered *expenditures* for that *election*, and *expenditures* made after the date of a *District Primary Election*, *City-wide Primary Election*, or *Special Election* shall be considered *expenditures* for a *District General Election*, *City-wide General Election*, or *Special Run-off Election*, respectively. However, in the event that *payments* are made but the goods or services are not used during the period purchased, the *payments* shall be considered *expenditures* for the time period in which the goods or services are used. *Payments* for goods or services used in both the primary and general *elections*, or in both the *Special Election* and *Special Run-off Election*, shall be prorated.

§27.2973 Expenditure Ceilings Lifted

- (a) If a *candidate* declines to accept the voluntary *expenditure* ceiling and receives *contributions*, has cash on hand, or makes *expenditures* in excess of 100% of the *expenditure* ceiling for that office, or if any other *committee* or *committees* make *independent expenditures* or *internal communications* that, in the aggregate, exceed 75% of the *expenditure* ceiling for that office, the voluntary *expenditure* ceiling shall no longer be binding on any *candidate* running for that office.
- (b) In the event that the *expenditure* ceiling is lifted for a particular office, any *candidate* running for that office who originally accepted the voluntary *expenditure* ceilings and qualified for matching funds in accordance with sections 27.2970, 27.2971, 27.2972 shall be permitted to continue receiving matching funds.

§27.2974 Election Campaign Fund

There is hereby established an account within a special revenue fund of the *City* to be known as the “Election Campaign Fund.”

§27.2975 Appropriation of Funds

The *City Council* shall appropriate to the Election Campaign Fund an amount sufficient to finance all *candidates* for *City* office participating in the matching fund program. The *City Clerk* shall provide a written estimate to the *City Council* of the amount necessary to be appropriated each fiscal year to provide the matching funds prescribed for all eligible *candidates* when cumulated over an *election* cycle, and the Council shall appropriate said funds each fiscal year. Such funds shall carry over from year-to-year in the Election Campaign Fund. The total amount of funds in the

Election Campaign Fund, however, shall not exceed \$_____ or .0_% of the *City* budget, whichever is less, in any two-year period.

§27.2976 Eligibility for Matching Funds

In order for a *candidate* for *City* office to be eligible for public matching funds, the *candidate* must satisfy all of the following requirements:

- (a) Make every reasonable effort to comply with state and *City election* laws.
- (b) Sign and file with the *City Clerk* a Voluntary Expenditure Ceiling and Public Funding Contract agreeing to abide by the voluntary spending limits as a condition for participating in the matching fund program.
- (c) Meet all ballot qualification requirements.
- (d) Raise at least \$10,000 in *contributions* from sources other than the *candidate's* personal funds or the funds of his or her *extended family* if seeking *City Council* district office, or raise at least \$15,000 from sources other than the *candidate's* personal funds or the funds of his or her *extended family* if seeking the office of the Mayor or City Attorney.
- (e) Be running in a contested *election* against at least one opponent who has qualified for matching funds or who has raised or spent at least \$10,000 in non-public campaign funds for *City Council* district office, or spent at least \$15,000 in non-public campaign funds for *candidates* for office of the Mayor or City Attorney.
- (f) Limit *contributions* from the *candidate's* personal funds or the funds of his or her *extended family* to no more than 5% of the voluntary spending limit. If the voluntary *expenditure* ceilings for the office being sought are lifted under section 27.2973, the provisions of this subsection shall not apply.

§27.2977 Matching Contribution Threshold for City Council District Office Candidates

Public matching funds shall be allocated to qualified *candidates* seeking *City Council* district office at any time after satisfying the *contribution* threshold for each

disbursement as determined by the *City Clerk*. The *contribution* threshold for disbursement of matching funds shall be according to the following formula:

- (a) A *candidate* or *candidate's controlled committee*, certified as eligible to receive public matching funds, may submit a request for public matching funds to the *City Clerk* each time a threshold of \$3,000 or more in matchable private *contributions* is reached.

- (b) A *candidate* or *candidate's controlled committee*, certified as eligible to receive public matching funds, may submit a request for public matching funds of \$1,000 or more during the 10 calendar days prior to the *election*.
- (c) The *City Clerk* shall have 5 business days to approve the request and disburse the public funds to the *candidate* or *candidate's controlled committee*.
- (d) The request for public matching funds shall be made on a form determined by the *City Clerk*, but shall include copies of each check, money order, or other written legal tender eligible to be matched by public funds.
- (e) Matchable private *contributions* shall only include *contributions* from individuals, other than the *candidate's extended family*, totaling \$150 or less per individual contributor per *election*. The public matchable portion shall be allocated at a ratio of two dollars of public funds for every dollar of matchable private *contributions*.
- (f) For purposes of this section, a loan, pledge, or non-monetary *contribution* shall not be considered a matchable private *contribution*.
- (g) No more than \$40,000 in public matching funds shall be disbursed to each eligible *candidate* per *election*.

§27.2978 Matching Contribution Threshold for Mayoral and City Attorney Candidates

Public matching funds shall be allocated to qualified Mayoral or City Attorney *candidates* at any time after satisfying the qualification *contribution* threshold for each disbursement as determined by the *City Clerk*. The threshold qualification *contributions* for disbursement of matching funds shall be according to the following formula:

- (a) A *candidate* or *candidate's controlled committee*, certified as eligible to receive public matching funds, may submit a request for public matching funds to the *City Clerk* each time a threshold of \$10,000 or more in matchable private *contributions* is reached.
- (b) A *candidate* or *candidate's controlled committee*, certified as eligible to receive public matching funds, may submit a request for public matching funds of \$1,000 or more during the 10 calendar days prior to the *election*.
- (c) The *City Clerk* shall have 5 business days to approve the request and disburse the public funds to the *candidate* or *candidate's controlled committee*.
- (d) The request for public matching funds shall be made on a form determined by the *City Clerk*, but shall include copies of each check, money order, or other written legal tender eligible to be matched by public funds.

- (e) Matchable private *contributions* shall only include *contributions* from individuals, other than the *candidate's extended family*, totaling \$250 or less per individual contributor per *election*. The public matchable portion shall be allocated at a ratio of two dollars of public funds for every dollar of matchable private *contributions*.
- (f) For purposes of this section, a loan, pledge, or non-monetary *contribution* shall not be considered a matchable private *contribution*.
- (g) No more than \$100,000 in public matching funds shall be disbursed to each eligible *candidate* per *election*.

§27.2979 Insufficient Public Funds

If there are insufficient public matching funds available for all eligible *candidates*, whatever funds are available in the Election Campaign Fund shall be distributed on a pro rata basis to qualified *candidates* as determined by the *City Clerk*.

§27.2980 Use of Public Matching Funds

- (a) Public matching funds shall be used exclusively for legitimate campaign expenses to promote the candidacy of the recipient *candidate*.
- (b) All surplus public matching funds, or matching funds used in violation of the requirements of this Division, shall be returned or reimbursed to the *City's* Election Campaign Fund.

§27.2981 Cost of Living Adjustment

Beginning in 2005, the *City Clerk* shall adjust the *expenditure* ceilings every four years according to the cost of living in the immediate San Diego area, as shown in the Consumer Price Index for all items in the area. The adjustment shall be rounded to the nearest thousand.

§27.2985 Duties of the City Clerk

In addition to other duties required of him under the terms of this division, the *City Clerk* shall:

- (a) prominently designate on the voter information pamphlet those *candidates* who have voluntarily agreed to the *expenditure* ceilings and signed the Voluntary Spending Limit and Public Funding Contract.
- (b) issue a press release in a timely fashion identifying those *candidates* who have, and have not, signed the Voluntary Spending Limit and Public Funding Contract.

- (c) Supply appropriate forms and manuals prescribed by the state Fair Political Practices Commission. These forms and manuals shall be furnished to all *candidates* and *committees*, and to all other *persons* required to report.
- (d) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of state law.
- (e) Report, at the *City Clerk's* discretion, apparent violations of this division and applicable state law to the *Enforcement Authority*.
- (h) Compile and maintain a current list of all statements or parts of statements filed with the office pertaining to each *candidate* and each *measure*.
- (i) Cooperate with the *Enforcement Authority* in the performance of the duties of the *Enforcement Authority* as prescribed in this division and applicable state law.

§27.2990 Enforcement Authority — Duties, Complaints, Legal Action, Investigatory Powers

- (a) Any *person* who believes that a violation of any portion of this Division has occurred may file a complaint with the *Enforcement Authority*.
- (b) The *Enforcement Authority* shall have such investigative powers as are necessary for the performance of the duties prescribed in this Division. The *Enforcement Authority* may demand and shall be furnished records of campaign *contributions* and expenses at any time.
- (c) The *Enforcement Authority* may elect to enforce the provisions of this Division administratively pursuant to Chapter 2, Article 6, Division 4, or may otherwise recommend or refer enforcement actions to the City Attorney or other law enforcement agency with jurisdiction.

§27.2991 Penalties

- (a) Any *person* who violates any part of this division, or who counsels, aids, abets, advises, or participates with another to commit any such violation, is guilty of a misdemeanor and is subject to the penalties set forth in chapter 1 of this code, or if the matter is pursued by the *Enforcement Authority* as an administratively, the any *person* found in violation is subject to the administrative penalties provided for in chapter 2, article 6, division 4.
- (b) In addition to being subject to the penalties set forth in chapter 1 of this code, any *person* found guilty of violating Sections 27.2935 or 27.2950, or both, shall be required to forfeit the amount received in violation of this division and pay over these funds to the City Treasurer for deposit in the *City's* General Fund.

- (c) If, after an *election*, a *candidate* or office holder is convicted in a court of law of a violation of any provision of this division, the *election* to office of such *candidate* or officeholder shall be void and the office shall become vacant immediately upon the later of the following two dates:
 - (1) The date of the *candidate* or officeholder's conviction; or
 - (2) The date the *candidate* would have taken office, if the *candidate* is not an incumbent. In the event of a vacancy resulting from application of section 27.2991(c), the vacancy shall be filled in accordance with the procedures set forth in the *City's* Charter for the filling of vacant *City* offices.
- (d) If a *candidate* is convicted in a court of law of violating any provision of this Division any time prior to the *election*, the candidacy shall be terminated immediately and the *person* shall be no longer eligible for *election*.
- (e) Any *person* convicted in a court of law of a violation of any provision of this division shall be ineligible to hold a *City elective office* for a period of five years from and after the date of the conviction.
- (f) Any limitation of time prescribed by law within which prosecution for a violation of any part of this division must be commenced shall not begin to run until the *City's* discovery of the violation.